

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.8875 OF 2007

Mrs.Rajashree Rajesh Dixit .. Petitioner

Versus

Rajesh Nagesh Dixit .. Respondent

Mr.G.S.Godbole with Nitin Mulye for petitioner
Mr.Sandeep Salunkhe for respondent.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 13th December 2007

P.C.

. This petition was placed before me for admission and interim reliefs.

2. The petitioner impugns an Interim order.

The petitioner is the wife and her application P.A.No.640 of 2002 on the file of Family Court, Pune which is an application under section 9 of Hindu Marriage Act. She applied for interim alimony and that application has been granted and alimony has been determined.

3. The respondent husband has filed P.A.588 of 2002 in the Family Court under section 12(1)(c) of the Hindu Marriage Act for annulment of the marriage. Both petitions are pending.

4. The grievance of the petitioner is that the petitioner has not received the interim maintenance and the respondent husband is in arrears. His defence in the petition is struck off and the trial court has directed on 17th June 2005 that he cannot proceed to defend unless and until the arrears are paid. During the course of arguments I suggested to both sides as to whether they are agreeable to a decree for divorce being

passed by mutual consent.

5. After taking instructions from the petitioner and respondent who are present in the court, their respective Advocates make a statement that they are agreeable to do so provided the petitioner receives a sum of Rs.5,50,000/- in full and final settlement so also all belongings and articles including stree-dhan, which is lying with the respondent.

6. The petitioner wife states that one necklace and one ear-ring which was on her person at the time of marriage is still lying with the respondent - husband. She is ready and willing to identify the said articles of jewellery by producing the receipts. Respondent husband makes a statement that all articles have been collected and taken away by her including jewellery, when the petitioner left the house. Despite this, if the said articles are identified and the same are

lying with the respondent husband, then, the same would be returned to the petitioner within a period of 15 days from today.

7. Out of Rs.5,50,000/- to be paid as full and final settlement, Rs.1 lakh would be paid on or before 31st January 2008 and the balance would be paid on or before 31st July 2008. In the light of this agreement between parties, the proceedings in the family court Pune to be converted into petition for divorce by mutual consent and the Family Court should pass appropriate orders therein in accordance with law. Petition disposed of. In default, both petitions referred to above to remain on record for disposal according to law. It is only upon payment that the marriage would stand dissolved by mutual consent.

8. The statement of Respondent husband that he would make payment as directed on 31st January

2008 and on 31st July 2008 is accepted.

9. Needless to state that in default of payment of Rs.1 lakh within the stipulated time or the balance sum by 31st July 2008. the petitioner wife would be at liberty to apply afresh for the relief which has been claimed in the Application (Exh.105) before the family court and the family court to pass appropriate orders in accordance with law, uninfluenced by the observations made in the order under challenge. Needless to state that All allegations would necessarily stand withdrawn upon proceedings being converted into petition for divorce by mutual consent and being taken cognisance of by the family court. In that event, all claims between parties shall stand satisfied and no party would raise any pleas in that behalf. Liberty to apply.

(S.C.Dharmadhikari, J)